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SENATE

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CLARIFYING THE FEDERAL RELATIONSHIP TO THE LAC VIEUX DESERT BAND OF LAKE SUPERIOR CHIPPEWA INDIANS AS A DISTINCT INDIAN TRIBE, TO CLARIFY THE STATUS OF MEMBERS OF THE BAND, TO TRANSFER TITLE TO TRUST LAND, AND FOR OTHER PURPOSES

JULY 6, 1988.—Ordered to be printed

Mr. INOUYE, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 1735]

The Select Committee on Indian Affairs, to which was referred the bill (S. 1735) to clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, to transfer title to trust land, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is an amendment in the nature of a substitute.

PURPOSE

S. 1735 is a bill to clarify the relationship of the Lac Vieux Desert Band of Lake Superior Chippewa Indians with the United States as a distinct and separately recognized Indian tribe. As amended by the Committee, the bill also provides for the use and distribution of certain judgment funds awarded the Keweenaw Bay Indian Community, with which the Lac Vieux Desert Band has been affiliated. The bill was introduced by Senator Riegle, for himself and Senator Levin, on September 30, 1987, and was referred to this Committee for consideration.

BACKGROUND AND NEED

Lac Vieux Desert Band

The Lac Vieux Desert Band is currently affiliated with the Keweenaw Bay Indian Community located in L'Anse, Michigan. The members of the Band are acknowledged by the United States to be members of a Federally recognized Indian tribe (i.e.,

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Keweenaw Bay Indian Community) and currently receive some services from both the Bureau of Indian Affairs and the Indian Health Service. However, because the Band's community at Watersmeet, Michigan, is located some 75 miles from the Keweenaw Bay Indian Community, the Band and its members simply do not receive the full range of services to which they are entitled.

To the extent the Band currently exercises powers of self-government, it does so under its own constitution. Historically the Band was separately recognized in treaties with the United States, and its current legal affiliation with the Keweenaw Bay Indian Community at L'Anse appears to have been a matter of administrative convenience for the United States. (See the 1842 and 1854 Treaties with the Chippewa, II Kappler, *Indian Affairs, Laws and Treaties*, pgs 542 and 648; 7 Stat. 591 and 10 Stat. 1109). There are approximately 250 persons who are members of this Band. Despite the legal affiliation of the Band with the Keweenaw Bay Indian Community, many of the people who will comprise the Band membership are currently enrolled in the Mole Lake Band of Chippewa Indians in Wisconsin.

In Hearings before the House Committee on Interior and Insular Affairs on H.R. 3679, a House companion bill, the Administration supported the legislation with a number of proposed amendments. These amendments, with minor exceptions, have been adopted by the House Committee, with a further amendment providing for the use and distribution of certain judgment funds awarded the Keweenaw Bay Indian Community, and the bill has been ordered reported out of that Committee.

In testimony before the House Committee on Interior and Insular Affairs, the Deputy to the Assistant Secretary for Indian Affairs (Tribal Services), Department of the Interior, expressed support for this legislation as follows: "[B]ecause of the relationship of the Band top the Mole Lake and Keweenaw Bay tribes, we do not consider it appropriate for them to go through out Federal Acknowledgement Process when 25 CFR 83.3 states that it is not meant to apply to Indian groups currently receiving services from the Bureau." Ms. Elbert further noted that as members of either the Mole Lake Band or the Keweenaw Bay Indian Community, the members of the Lac Vieux Desert Band are currently receiving services as members of Indian communities and the budgetary impact for this legislation will be minimal and funded out of the existing "New Tribes" budget.

The Keweenaw Bay Indian Community has formally supported enactment of this legislation through adoption of a tribal resolution. The Mole Lake Band of Chippewa has previously expressed support for the separate recognition of the Lac Vieux Desert Band of Chippewa Indians. In addition, recognition of the Lac Vieux Desert Band of Lake Superior Chippewa Indian Tribe as a separate and distinct Indian tribe is unanimously supported by the 29 member tribes of the Great Lakes Regional Intertribal Assembly, and is supported by the National Congress of American Indians.

The Keweenaw Bay Indian Community, including the Lac Vieux Desert Band as it is presently constituted, is currently served by the Bureau of Indian Affairs Agency located in Sault Ste. Marie, Michigan, a distance of approximately 300 miles from the head-

quarters of the Lac Vieux Desert Band in Watersmeet, Michigan. The Tribe has expressed the desire to receive services in the future through the Bureau of Indian Affairs Agency located in Ashland, Wisconsin, which is located within 75 miles of Watersmeet, Michigan. The Lac Vieux Desert Band is a part of the Lake Superior Band of Chippewa Indians, many bands or tribes of which are located in Wisconsin and are served by the Ashland Agency. The Lac Vieux Desert Tribe has common interests in treaty rights affecting these tribes in Wisconsin and is affected by legal decisions involving those treaties. The Committee urges the Secretary to favorably consider the wishes of the Lac Vieux Desert Tribe to be served by the Ashland Agency.

The Congressional Budget Office has reviewed S. 1735, the Lac Vieux Desert Band of Lake Superior Chippewa Indians Act, as ordered reported by the Select Committee on Indian Affairs on April 29, 1988. CBO states that based on a national average, the Band could be expected to receive between $625,000 and $750,000 per year, but, since the Band is already receiving some federal services the increase in expense to the federal government is estimated to be less than $500,000 per year. The Band has requested funding from the New Tribes budget of the Bureau of Indian Affairs for fiscal year 1989 of $400,000. The Committee supports this request.

Keweenaw Bay Indian Community

The Administration objects to the Keweenaw Bay judgment fund provision for technical reasons relating to the definition of membership currently encompassed in the tribe's Constitution Article II, Section 1 of the Constitution provides as follows:

> (a) The bona fide enrolled members of the L'Anse, Lac Vieux Desert and Ontonagon Bands of Chippewa Indians as shown on any of the allotment rolls of the L'Anse, Lac Vieux Desert and Ontonagon Reservations, and their descendants who were residing within the limits of the L'Anse Reservation of June 1, 1934.
>
> (b) Every child of one-quarter or more Indian blood, born hereafter to any members of the Keweenaw Bay Indian Community, provided such member is a resident of the reservation at the time of birth of said child, and every child both of whose parents are members of the community.

The Kewseenaw Bay Indian Community has, for some time, sought to amend its constitution to eliminate this restriction, and to establish a base role for the Community premised on the allotment rolls of the L'Anse, Lac Vieux Desert, and Ontonagon Reservations. Article VIII of the Constitution provides that the Constition may be amended by a majority vote of the members voting in the tribal election. However, a second provision in the Constitution which requires that the Secretary of the Interior call an election upon petition of two-thirds of the tribal membership has lent confusion to the process. Article VIII of the Constitution provides as follows:

> SEC. 1. This Constitution and By-laws may be amended by a majority vote of the qualified voters of the Communi-

ty voting at an election called for that purpose by the Secretary of the Interior provided that at least thirty (30) percent of those entitled to vote shall vote in such election, but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment upon presentation oif a petition signed by two-thirds of the eligible voters of the Community.

Correspondence from the Department of the Interior to this Committee dated April 28, 1988, indicates that the Department has concluded that in the absence of a petition by the two-thirds of the members of the tribe, the Secretary is not authorized to call an election for purposes of amending the Constitution. The Committee does not agree that this language limits the authority of the Secretary to call such an election when duly requested. To the contrary, the language appears to limit the discretion of the Secretary in declining to call an election and to impose an affirmative duty to call such an election when presented with a petition signed by two-thirds of the tribal membership.

Despite the current definition of membership in the Keweenaw Bay Indian Community's constitution, the tribe has recognized persons who were not born on the reservation as tribal members, and may not have distinguished among the original allottees on the basis of blood quantum. This criteria has been followed in extending the right to vote in tribal elections, and such persons have received services from the various Federal agencies administering programs for the benefit of Indians. The tribe has a membership role on file at the Michigan Agency. The proposed amendment for distribution of tribal judgment funds simply conforms to this tribal practice and understanding of its own membership.

LEGISLATIVE HISTORY

S. 1735 was introduced by Senator Riegle, for himself and Senator Levin, on September 30, 1987, and was referred to the Select Committee on Indian Affairs for consideration. Two companion bills, H.R. 3194 and H.R. 3679, were introduced in the House of Representatives. On March 8, 1988, the House Interior and Insular Affairs Committee held hearings, on H.R. 3679. On April 13, 1988, the House Interior and Insular Affairs Committee, in an open business meeting, ordered H.R. 3679 reported out of Committee with an amendment in the nature of a substitute. There have been no hearings before the Select Committee on Indian Affairs. On April 28, 1988, the Select Committee, in an open business session, adopted an amendment in the nature of a substitute for S. 1735 and ordered the bill reported with a recommendation for passage of the bill, as amended.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

The Select Committee on Indian Affairs, in open business session on April 28, 1988, by unanimous vote on a quorum present, adopted an amendment in the nature of a substitute and ordered S. 1735 reported with a recommendation for passage, as amended.

SECTION-BY-SECTION ANALYSIS

Section 1

This section cites this Act as the "Lac Vieux Desert Band of Lake Superior Chippewa Indians Act".

Section 2

This section contains the Congressional Findings stating that the Lac Vieux Desert Band, which has about 250 members, has historically existed as a separate entity even though the Federal government currently recognizes such Band as part of the Keweenaw Bay Indian Community. Members of the Lac Vieux Desert Band reside on trust lands located about 75 miles from the Keweenaw Bay Indian Community and because of such distance, receive only a part of the benefits to which the tribe and its members are entitled.

Section 3

This section defines the terms "Band", "member", and "Secretary" for the purposes of this Act.

Section 4

This section provides for the Federal recognition of the Band and states that all laws of the United States of general application to Indians shall apply to the members of the Band. The section also provides for the Band and its members to be eligible for all special programs and services provided by the United States to Indians because for their status as Indians.

Section 5

Subsection (a) provides that within six months after the date of enactment of this Act, the Band shall submit to the Secretary for approval, its base membership roll. This roll shall only include those individuals who are eligible for membership under subsection (b) and who are not members of any other Federally recognized Indian tribe or who have relinguished membership in such tribe.

Subsection (b) provides that in order to be eligible for the base membership roll, an individual has to meet at least one of the two criteria.

The first criterium is to be on the tribal membership roll as maintained by the Band prior to the date of enactment of this Act. A copy of this roll containing 224 names was received by the House Committee on Interior and Insular Affairs on the date the bill was ordered reported by the Committee and such roll was sent to the Department of the Interior by the Committee on the date the Committee report was filed with the House.

The second criterium is for the individual to be at least one quarter Chippewa Indian blood and a person or a descendent of a person who was or could have been listed on any of the census of the Lac Vieux desert prepared by the Superintendent of the MacKinaw Agency prior to 1928 or by the Superintendent of the Great Lakes agency on or prior to 1940.

Subsection (c) provides that once completed and approved, the Band shall ensure that the roll is maintained and kept current.

Paragraph (1) of Subsection (d) provides that notwithstanding paragraph (b) and except as provided in paragraph (2), after the base roll is completed and approved as provided in subsection (a), an individual can only be added to the tribal roll and thereby become a tribal member if he is a descendent of an individual whose name appears on the base roll and has at least one quarter Chippewa Indian blood.

Paragraph (2) of subsection (d) provides that the Band may modify such quarter Chippewa blood quantum requirement if such modification is adopted in the tribal election as prescribed under paragraph (a) of section 6 or in a referendum by a majority of the voters and approved by the Secretary.

Section 6

Subsection (a) provides that within on year following enactment of this Act, the Band's governing body shall propose a governing document and the Secretary shall conduct an election as to the adoption of the proposed document.

Subsection (b) provides that until the Band adopts and the Secretary approves a governing document, the Band's interim governing document shall be the Lac Vieux Desert Constitution which bears the approval date of June 18, 1986.

Subsection (c) provides that until the Band elects a governing body under the new governing document, the Band's governing body shall consist of its current Band officers or any new officers selected under the election procedures of the interim governing document.

Section 7

Subsection (a) authorizes the Keweenaw Bay Indian Community to convey to the United States in trust for the Band, all lands located in Gogebic County, Michigan, which on the date of enactment of this Act are held in trust by the United States for the benefit of the Keweenaw Bay Indian Community. Upon acceptance of the deed, all such lands shall constitute the reservation of the Lac Vieux Desert Band.

Subsection (b) provides that the Secretary may place such other land into trust for the benefit of the Band pursuant to the provisions of the Act of June 18, 1934. This subsection also provides that all such lands taken in trust and located in Gogebic County shall become part of the reservation.

Section 8

Subsection (a) provides that for the purpose of proceeding with the per capita distribution of the funds appropriated and apportioned to the Keweenaw Bay Indian Community in satisfaction of judgments awarded the Lake Superior Chippewas and Mississippi Chippewas in dockets numbered 18–C, 18–T, 18–S and 18–U of the Indian Claims Commission, the Secretary shall accept the Tribe's certification of enrolled membership.

Subsection (b) provides that individuals who are or become members of the Lac Vieux Desert Band and who are eligible for per capita shares out of funds apportioned to the Keweenaw Bay Indian Community of Sokaogan Chippewa Community in the dock-

ets mentioned in subsection (a) shall continue to be eligible for such per capita payments notwithstanding relinquishment of their enrollment in either community pursuant to section 5 of this Act.

COST AND BUDGETARY CONSIDERATION:

The cost estimate for S. 1735, as amended, as evaluated by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 3, 1988.

Hon. DANIEL K. INOUYE,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1735, the Lac Vieux Desert Band of Lake Superior Chippewa Indians Act, as ordered reported by the Senate Select Committee on Indian Affairs, April 28, 1988.

S. 1735 would affirm the status of the Lac Vieux Desert Band of Lake Superior Chippewa Indians as an independent tribe with a trust relationship to the United States. All laws of general application to Indians or special programs or services provided by the U.S. government to Indians would apply to members of this Band. The bill authorizes the Keweenaw Bay Indian Community, of which the Band is currently considered a part, to convey to the Secretary of the Interior all lands in Gogebic County, Michigan, for the Band's reservation. The bill authorizes and directs the Secretary to approve and accept these lands and hold them in trust for the Band, along with any other land placed in trust for the Band by the Secretary.

Under this bill, the Band would be responsible for preparing and maintaining a base membership roll and governing document; the Secretary of the Interior would be responsible for approving the membership roll and any new membership requirements unless contrary to federal law, and for holding elections on and approving the governing document unless contrary to federal law.

Although the bill does not specifically authorize the appropriation of funds, it would make tribe members eligible for all services and benefits available to federally recognized Indian tribes. Thus, while no additional expenditures are mandated by the bill, relevant federal agencies would be required to include about 250 tribe members among those eligible for benefits and may need to seek additional funds in order to provide such benefits.

Based on information provided by the Bureau of Indian Affairs (BIA), we estimate that enactment of this bill would result in additional costs to the federal government of less than $500,000 per year. The BIA provides newly acknowledged tribes with funding to assess their needs, design or propose programs, and submit proposed budgets for federally funded operations; after an initial period, a similar amount is provided to support ongoing services. Based on the national average, the Band could be expected to receive between $625,000 and $750,000 per year. However, because the members of the Band have already been receiving some services as members of another tribe, the additional cost to the federal

government of recognizing this tribe is estimated to be less than this amount; furthermore, the amount is difficult to predict because it would be based on the specific needs of the Band. The administrative requirements for the BIA are not expected to result in significant additional cost.

No costs would be incurred by state or local governments as a result of enactment of this bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 1735, as amended, will have a minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee received the following communication from the Department of the Interior:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, April 28, 1988.

Hon. DANIEL K. INOUYE,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 1735, a bill "To clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian Tribe, to clarify the status of members of the band, to transfer title to trust lands, and for other purposes."

We would support the enactment of S. 1735 if it is amended to address our concerns. Furthermore, we would strongly oppose inclusion of section 8(a) of H.R. 3679, a similar bill, into S. 1735.

S. 1735 purports to clarify the relationship of the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Tribe.

The Lac Vieux Desert Band of Lake Superior Chippewa Indian is a group of approximately 250 people which currently has an unusual and complex status. Currently, Federal Indian services are provided to individual members, but the Band does not have the autonomy of tribal government that we believe should be afforded this group. While most of the Band's members are enrolled with the Sokoagon Chippewa Community of the Mole Lake Band of Chippewa Indians in Wisconsin, they have received services through the Keweenaw Bay Indians Community. However, the Band appears to be, historically and currently, a distinct social and political entity which would meet the criteria for acknowledgemen

we normally apply in the formal Federal Acknowledgement Process outlined in 25 CFR 83, except that the group is composed principally of persons who are members of other Tribes.

Initially, the Band (identified as "Vieux Desert" or "Vieux De Sert") entered into two treaties with the United States as a distinct tribal entity (7 Stat. 591, 10 Stat. 1109). Since that time, there has been intermittent and varied contact between members of the group and Bureau of Indian Affairs (BIA) officials over the years. The Band has been regarded as separate and distinct by surrounding bands and Tribes in Wisconsin and Michigan, and the Tribe has made several attempts to receive an autonomous tribal status. However, the Band has become linked with the Mole Lake and Keweenaw Bay Tribes. Therefore, their present "tribal status" is not clear. To further complicate the matter, because of the relationship of the Band to these two tribes, and to the Bureau through them, we do not consider it appropriate for the Band to go through our Federal Acknowledgement Process since 25 CFR 83.3 states that the process is not meant to apply to Indian groups currently receiving services from the Bureau.

Therefore, we believe that because of the unique status of this group it is appropriate for Congress to clarify its status and to establish the Tribe's reservation. Clarifying the status of this group does not create a new Federal responsibility or a new service population since its members are now eligible to receive services from other tribes. Therefore, the only budgetary impact would be for any additional services provided to, or through, the new tribal government. We anticipate using funds currently available under our "New Tribes" budget to provide these services. Also, we do not believe that the clarification of this group's status will set any adverse precedent with respect to avoidance of the Federal Acknowledgment Process, which we view as the most appropriate mechanism for acknowledging to groups currently ineligible for Federal services.

However, we have a number of concerns regarding the membership roll and the procedures for establishing appropriate tribal documents outlined in S. 1735. A substitute bill is attached to this report which satisfies our concerns. They are as follows:

1. S. 1735 would provide that the Band and its members shall be eligible, on and after the date of enactment of the Act, for all Federal services and benefits furnished to Federally recognized Indian tribes, but it does not address the establishment of a tribal government and tribal governing documents. We believe that a tribal constitution should be developed, adopted and approved under existing regulations and that an interim tribal governing body be recognized to facilitate this process.

2. S. 1735 would provide for the Tribe to develop its membership roll with no Secretarial review. We believe Secretarial review is appropriate and necessary to avoid problems that may arise in the future concerning membership requirements. We recommend that the roll be established within a reasonable period and be subject to the Secretary's approval.

3. The membership requirements provided for under section 5(1) of S. 1735 refer to the "Lac Vieux Desert or Watersmeet area." Our substitute bill does not limit the geographic area of eligible mem-

bers. If the current language is maintained we believe the word "area" is not precise and recommend that it be changed to "Township" or to specific counties.

4. Section 5(3) of S. 1735 provides for the inclusion of Indians other than Lac Vieux Desert in the membership of the Tribe. A 1971 list of Indians in the Watersmeet vicinity (Gogebic and Iron Counties) included approximately 180 Chippewa Indians not designated as Lac Vieux Desert. Since this list is 17 years old, it can be assumed that there has been a natural increase in the non-Lac Vieux Desert Chippewa population since 1971. It is possible that this group could double the size of the Band's membership. We see no justification for including non-descendants of the Lac Vieux Desert Band in the membership of the Tribe.

5. Since many individuals who would be eligible for membership in this Tribe are already members in other Tribes, we believe the bill should preclude dual membership. We understand that many individuals have already signed statements that they would prefer to be enrolled with the Lac Vieux Desert Band and would relinquish their membership at Mole Lake and Keweenaw Bay.

6. S. 1735 is not clear as to future requirements for membership in the Tribe. We believe that the current one-quarter descendency requirement that is part of the Tribe's governing document should be maintained by the Tribe.

7. In 1965 the Keweenaw Bay Tribal Council chartered the Lac Vieux Desert Chippewa Housing Authority. Lands acquired on behalf of Lac Vieux Desert at Watersmeet in 1967 and 1981 were conveyed to the United States. Since Lac Vieux Desert is not separately recognized, the land is held in trust for Keweenaw Bay who then lease it to the Lac Vieux Desert Housing Authority. Section 6 of S. 1735 would provide that this land held in trust by the Secretary for the Keweenaw Bay Indian Community be held in trust by the Secretary for the Lac Vieux Desert Band. We have a letter from the Keweenaw Bay Indian Community indicating they do not object to this transfer but we have also asked for a tribal resolution to avoid any possible question of inappropriately taking land from one Tribe and giving it to another.

We believe that S. 1735 should be amended to specify that the land being transferred is the 27.8 acres of trust land in Gogebic County, Michigan, to avoid also transferring the 5,735.15 acres of Keweenaw Bay tribal trust land in Baraga County. S. 1735 provides a land description of the land to be transferred that we believe is inaccurate. We would prefer the more general language used in our substitute bill.

On April 13, the House Interior and Insular Affairs Committee marked up H.R. 3679, an identical bill, and incorporated most of our requested amendments. However, the Committee added a new section 8(a) to H.R. 3679. Section 8(a) would require the Secretary of the Interior to accept the Keweenaw Bay Indian Community's (the "Tribe's") certification of enrolled membership for purposes of paying a per capita distribution to members of the Tribe. We are strongly opposed to this provision, and we urge the Committee not to include the provision in S. 1735.

Public Law 99-146 (November 11, 1985, 99 Stat. 780) provided for the use and distribution of judgment awards to several Indian

Tribes, including the Keweenaw Bay Indian Community. Part of the apportioned share of Keweenaw Bay's funds is to be used as follows:

> (1) Eighty percent of each reservation's share (fifty percent of the Keweenaw Bay Indian Community) shall be held and administered by the Secretary for per capita distribution and the sums (including the investment income accrued) shall be distributed in a sum as nearly equal as possible for each individual born on or prior to and living on the date of enactment of this Act who is enrolled on the respective tribal membership roll brought current to such date of enactment under tribal enrollment procedures.

The above distribution under the 1985 Act is consistent with the October 17, 1983, plan for the Tribe's per capita distribution which was published in the Federal Register (48 Fed. Reg. 57372). Before the plan was finalized, the members of the Tribe had an opportunity to comment on this plan both in writing, and at public hearings. The plan reads in pertinent part:

> The Secretary shall make a per capita distribution of fifty (50) percent of such funds, including all interest and investment income accured, in a sum as equal as possible, to each enrollee of the Keweenaw Bay Indian Community born on or prior to and living on the effective date of this plan, and who meets the membership requirements of the constitution and By-laws, approved by the Secretary on December 17, 1936, and tribal adoptions ordinance, approved by the Secretary on April 4, 1940. The membership roll of the Tribe shall be brought current under existing tribal procedures. Any amount remaining after the per capita payment to the enrollees shall revert to the Tribe for use in the programming aspect of this plan. (48 Fed. Reg. at 57372).

Clearly the 1985 Act and the 1983 plan require per capita payments to be made only to those members enrolled under the requirements of the Tribe's constitution. There is no evidence to suggest that anyone other than full members enrolled under the Tribe's constitution should receive per capita payments. We note that Congress has accepted 2 plans and enacted a law determining that this money should go to tribal members as defined under the Tribe's constitution.

The Tribe's constitution defines their membership as follows:

> (a) The bona fide enrolled members of the L'Anse, Lac Vieux Desert and Ontonagon Bands of Chippewa Indians as shown on any of the allotment rolls of the L'Anse, Lac Vieux Desert and Ontonagon Reservations, and their descendants who were residing within the limits of the L'Anse Reservation of June 1, 1934.
>
> (b) Every child of one-quarter or more Indian blood, born hereafter to any member of the Keweenaw Bay Indian Community, provided such member is a resident of the reservation at the time of birth of said child, and every child both of whose parents are members of the community.

The Tribe's constitution also provides for another class of adopted members who are not entitled to share in claims awards or hold tribal office.

The BIA is currently in the process of developing a Secretarial roll for the purposes of paying the per capita payments. We are aware that the Tribe has included on their membership roll several people who do not meet either the above-mentioned blood quantum or the residency requirements of the constitution.

In 1976 the tribal council passed a resolution stating that all individuals on the allotment rolls would be considered full blood. We have consistently opposed the use of blood quantum amount which we know to be incorrect. As of this date we are aware that 158 of the 639 allotees were less than full blood. The allotment records recorded the following blood quantums for individuals rceiving allotments; 131 full blood, 14 three-fourths, 125 one-half, and 19 one-fourth. We hope to complete our research in the next few months to identify all eligible members of the Tribe under the requirments of the Tribe's constitution.

In 1984, the tribal council passed a resolution stating that all illegitimate children would be considered to have the same blood-quantum as the mother for pusposes of enrollment. This is contrary to our consistent policy in such cases which is to consider such children as having one-half of the mother's blood quantum. Also, in 1984, the tribal council passed another resolution changing the residency requirement for tribal membership.

Moreover, the tribal council requested at that time that the BIA waive the Tribe's constitutional requirments that a petition of two-thirds of the members request an election to vote on a constitutional amendment. They wanted to have a petition with one-third of the members requesting an election which is contrary to the Tribe's constitution and the governing regulation in 25 CFR 81.5(d). We denied the request.

We believe that the governing documents of a Tribe must represent the wishes of the majority of the Tribe and should only be changed by a vote of the tribal members.

Section 8(a) of H.R. 3679 would affirm the right of a few members of the Keweenaw Bay Indian Community to decide for the members at large who would be a member of the Tribe for purposes of receiving a per capita payment contrary to the provisions of the Tribe's constitution. It should be noted that at least some members do not agree with this provision.

We certainly are not opposed to the Tribe determining who should receive per capita payments. Indeed, judgment awards belong to the Tribe. However, we want to be certain that the tribal members have a voice in determining the appropriate beneficiaries of the award.

The Office Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

WILLIAM P. RAGSDALE,
Acting Assistant Secretary.

Enclosure.

A BILL To reaffirm Federal recognition of the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SEC. 1. SHORT TITLE.

This Act may be cited as the "Lac Vieux Desert Band of Lake Superior Chippewa Indians Act".

SEC. 2. DEFINITIONS.

In this Act—

(1) "Band" means the Lake Vieux Desert Band of Lake Superior Chippewa Indians;

(2) "member" means those individuals eligible for enrollment under section 5 and enrolled on the Band's membership roll; and

(3) "Secretary" means the Secretary of the Interior.

SEC. 3. FEDERAL TRUST RELATIONSHIP.

(a) The Federal recognition of the Band and of the trust relationship between the United States and the Band is hereby reaffirmed. The Act of June 1934 (48 Stat. 984), as amended, and all laws and rules of law of the United States of general application to Indians, Indian tribes or Indian reservations which are not inconsistent with this Act shall apply to the members of the Band, the Band, and the reservations. The Band is hereby recognized as an independent tribal entity, separate from the Keweenaw Bay Indian Community or any other tribe.

(b) The Band and its members are eligible for all special programs and services provided by the United States to Indians because of their status as Indians.

SEC. 4. ORGANIZATION OF TRIBE; CONSTITUTION AND GOVERNING BODY.

(a) Within one year following the enactment of this Act, the Band's governing body shall propose a governing document, and the Secretary shall conduct, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984, 987; 25 U.S.C. 476) and in accordance with applicable rules and regulations, an election as to the adoption of the proposed document. The Secretary shall approve the governing document if approved by a majority of the tribal voters unless the Secretary finds that the proposed constitution is contrary to Federal law.

(b) Until the Band adopts and the Secretary approves a governing document, the Band's interim governing document shall be the Lac Vieux Desert Constitution which bears the approval date of June 18, 1986 and a copy of which is in the files of the Division of Tribal Government Services, Bureau of Indian Affairs, Washington, DC.

(c) Until the Band adopts a governing document, the Band's governing body shall consist of its current Band officers, elected at the Band's election held on November 5, 1986, or any new officers selected under election proce-

dures of the interim governing document identified under subsection (b) of this section.

SEC. 5. ESTABLISHMENT OF A BAND ROLL.

(a) Within six months after the enactment of this Act, the Band shall submit to the Secretary, for approval, its base membership roll which shall consist of individuals eligible for membership under subsection (b).

(b) An individual is eligible for the base membership roll in the Band if that individual—

(1) is of Lac Vieux Desert Band descent and at least one-quarter Chippewa Indian blood quantum;

(2) is not a member of another Indian tribe; and

(3) meets such other membership requirements as may be prescribed in the band's interim or future governing documents.

(c) The Band shall ensure that the roll, once completed and approved, is maintained and kept current.

SEC. 6. LAND ACQUISITION; ESTABLISHMENT OF FEDERAL RESERVATION.

The Keweenaw Bay Indian Community is hereby authorized to convey, by deed to the United States in trust for the Band, all lands located in Gogebic County, Michigan, which, on the date of enactment of this Act, are held i trust by the United States for the benefit of said Community. The Secretary is hereby authorized and directed to approve and accept the deed with the expressed consent of the Keweenaw Bay Indian Community and the Band. Upon acceptance of the deed, all lands described therein shall constitute the reservation of the Band. Nothing in this section shall be construed as limiting the authority of the Secretary under sections 5 and 7 of the Act of June 18, 1934 (48 Stat. 985).

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that there will be no changes in existing law made by S. 1735.

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